REMARKS

Claims 11 to 14 are added, and therefore claims 5 to 14 are now pending.

Reconsideration is respectfully requested based on the following.

Claims 5 to 10 were rejected under 35 U.S.C. § 102(b) as being unpatentable over Takaya et al., U.S. Patent Number 5,497,327 (the "Takaya" reference).

As regards the anticipation rejections of the claim, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejection, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 5 has been rewritten, so that it is to a method for triggering a restraint device which includes the features of triggering the restraint device as a function of a collision signal and initiating the triggering when the collision signal exceeds a noise threshold *at a triggering time* in which *calculated time* required for the collision signal to exceed the noise threshold is taken into account in determining the triggering time for the restraint device, ***in which the calculated time is calculated as a function of a collision velocity***.

As regards claim 5, the Office Action refers to the abstract, the text at column 3, lines 7 to 41 and column 5, line 4 to column 6, line 3, and Figures 1, 6 and 7 of the "Takaya" reference as assertedly disclosing the features as provided for in the context of claim 5 (see

Office Action, pages 2 and 3). In particular, as regards the feature of "***the calculated time is calculated as a function of a collision velocity***" as provided for in the context of claim 5, the Office Action conclusorily asserts that: "Furthermore, the time (t0) is calculated as a function of the input *deceleration signal (g) or deceleration sensor (1), which is proportional to a vehicle collision velocity* (see Abstract; col. 5, lines 4-col. 6, line 20; Figures 6-7)". (See Office Action, page 3) (emphasis added).

In fact, the deceleration signal (g) is not "proportional to a vehicle collision velocity," as conclusorily asserted. As commonly understood by a person in the art and clearly defined in dictionaries or textbooks, deceleration (or acceleration) is "the rate of change of velocity with respect to time" or broadly "change of velocity," (see Merriam-Webster's Collegiate Dictionary, Eleventh Edition). Deceleration is well understood as relating to the change of velocity, and *not to the value of the velocity.*

This is illustrated as follows: An object traveling at a constant speed of 100 miles/hour and another object traveling at a constant speed of 1 miles/hour are both having a deceleration (or acceleration) of "0" even though both objects have different traveling velocities since the rates of velocity change are the same for either object. In another example, an object traveling at an instant speed of 100 m/s decelerates at 10 m/s^2 will stop in 10s. Another object traveling at an instant speed of 100 m/s decelerates at 100 m/s^2 will stop in 1s. Accordingly, deceleration signal (g) or deceleration sensor (l) is *NOT* proportional to a vehicle collision velocity as conclusorily asserted by the Office. Thus, a deceleration signal (g) does not identically disclose the feature of "a collision velocity" as provided for in the context of claim 5.

Any reading of the "Takaya" reference makes plain that it does not concern velocity -- let alone a collision velocity, for calculating its operating time (FT). Indeed, the "Takaya" reference does not even refer to the word "velocity." Within the cited portion of the "Takaya" reference, the time (duration) is timed during a deceleration process until an integrated value exceeds a threshold value (see "Takaya" Abstract, Figure 7). This is wholly different than the calculated time required for the collision signal to exceed a noise threshold, in which the calculated time is calculated based on a function of a collision velocity, as provided for in the context of the claimed subject matter.

As regards the "triggering time" feature of claim 5, the operating timing (FT) in the cited reference does not identically disclose (or even suggest) the triggering time (accounted

for a calculated time required for a collision signal to exceed a noise threshold), which is a time point at which the collision signal is checked to determine if the collision signal indeed exceeds the noise threshold, at which point the collision signal may exceed the noise threshold. When the collision signal exceeds the noise threshold at the triggering time, the triggering of a restraint device is initiated.

In stark contrast, the operating time (FT) in the cited reference relates to an operation time calculated until an integrated value (S) exceeds a threshold value (S_0) (see "Takaya," Figures 7 and 8, Abstract; and column 5, line 51 to column 6, line 11). This does not identically disclose (or even suggest) the feature of a triggering time at which the collision signal is checked against the noise threshold. Indeed, the operating time (FT) is determined only after the integrated value exceeds a threshold value, which is wholly different than the triggering time at which the collision signal is checked to determine whether it exceeds the noise threshold.

Accordingly, claim 5, as presented, is allowable, as are its dependent claims 6 to 10. Withdrawal of the anticipation rejections of claims 6 to 10 is therefore respectfully requested.

New claims 11 to 14 do not add new matter and is fully supported by the application (including Fig. 4). New claims 11 to 14 depends from claim 5, as presented, and are therefore allowable for at least the same reasons as claim 5, as presented.

In sum, all of pending claims 5 to 14 are allowable.

CONCLUSION

In view of the foregoing, claims 5 to 14 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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